

THE LAW OFFICE OF

ELISA HYMAN, P.C.

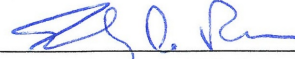
July 18, 2022

MEMO ENDORSED

VIA ECF

Honorable Edgardo Ramos, U.S.D.J.
 United States District Court - Southern District
 40 Foley Square
 New York, New York 10007

The conference scheduled for tomorrow, July 21, 2022, is adjourned *sine die*. The parties are directed to provide a status update by September 16, 2022. SO ORDERED.



Edgardo Ramos, U.S.D.J.

Dated: July 20, 2022

New York, New York

Re: *K.C. v. N.Y.C. Dep't of Educ., et al.*, 21-cv-10624 (ER)

Dear Judge Ramos:

I represent the Plaintiffs in the above-referenced case and write jointly with counsel for the Defendants. We are respectfully requesting an adjournment of the initial conference scheduled for July 21, 2022 and a corresponding extension of time to submit a proposed Case Management Plan ("CMP"). ECF No. 15.

This action is brought by Plaintiff K.C. on behalf of her son, A.C., a 12-year-old boy with cerebral palsy and autism, as well as other health issues. The complaint alleges, *inter alia*, that the New York City Department of Education ("DOE"), Chancellor David Banks and the New York City Board of Education ("BOE") (collectively "Defendants" or "DOE") have failed to implement orders of administrative hearing officers under the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1400 *eq seq.*, and denied A.C. his right to stay-put services (also called "Pendency") under the IDEA, 20 U.S.C. § 1415(j). Additionally, this action raises systemic claims and brings claims pursuant to the Due Process Clause of the 14th Amendment of the U.S. Constitution, 42 U.S.C. § 1983, and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 ("Section 504"). More specifically, Plaintiff K.C. won multiple IDEA impartial hearings concerning A.C.'s special education, and Plaintiff claims in this action that Defendants failed to timely and fully implement the favorable decisions ordering Defendants to create IEPs with K.C.'s requested services, which included home-based and after-school services and specialized equipment, awarding Plaintiff compensatory education, and ordering evaluations and reimbursements.

Defendants assert that the Department has implemented all of the Findings of Fact and Decision ("FOFD") items that Plaintiff has activated (namely, five independent evaluations), *i.e.*, by identifying a service provider to the Department and submitting the related invoice; that Plaintiff has yet to activate any other FOFD item; and that the Department stands ready to implement all remaining FOFD items once activated.

Thus far, the parties have focused on and resolved an issue concerning the Student's current and ongoing educational needs – specifically, an issue related to the provision of nursing services. Accordingly, the parties would like to now turn their attention to discussing the

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possibility of settlement of this action. To that end, the parties are scheduled to meet later this month, after we've had discussions with our clients. The parties are hopeful that we will be able to resolve the claims and issues without formal discovery and subsequent motion practice. The parties are optimistic that this case could be resolved via settlement as the parties have successfully resolved numerous similar actions via settlement. If full settlement is not possible, settlement of some of the claims could narrow the issues to be litigated.

The parties respectfully request that the initial conference and submission of a CMP be adjourned *sine die* while Defendants investigate Plaintiffs' claims and gather information which will assist in settlement negotiations. The parties propose submitting a status report no later than September 16, 2022, updating the Court with our progress towards settlement. This is the parties' first request for an adjournment of the initial conference and extension of time to submit a proposed case management plan.

Thank you for Your Honor's consideration of this request.

Respectfully Submitted,
THE LAW OFFICE OF ELISA HYMAN, P.C.

By: Erin O'Connor

Erin O'Connor, Esq., Of Counsel
Counsel for Plaintiffs

cc: Darian Alexander, Esq., *Counsel for Defendants*